

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DANIEL LEWIS WEIMER)	
Plaintiff,)	
)	
v.)	
)	
PENNDOT DEPARTMENT OF)	Civil Action No. 10-1275
DRIVER'S LICENSE and)	
TROOPER MAYNARD, West)	
Virginia State Police,)	
Berkley County)	
Defendants.)	

MEMORANDUM

Gary L. Lancaster,
Chief Judge

October 4, 2010

Before the court are plaintiff's motion for leave to proceed in forma pauperis and his pro se complaint. For the reasons that follow, plaintiff's motion will be granted, and his complaint dismissed.

I. BACKGROUND

Plaintiff's pro se complaint is both brief and vague. Plaintiff tries to allege that his civil rights were violated when Trooper Maynard of the West Virginia State Police pulled him over for having a burned out tail light. Plaintiff alleges Trooper Maynard gave him two traffic tickets, one for operating an unregistered vehicle and one for driving with a suspended license. Plaintiff claims that he was driving a farm vehicle, and that 75 Pa. Cons. Stat. § 1502(5) exempts farmers operating an implement of husbandry from licensing requirements.

II. Discussion

A. Motion for Leave to Proceed In Forma Pauperis

We first address plaintiff's motion for leave to proceed in forma pauperis.

Congress has authorized the federal courts to allow a party to proceed with the commencement, prosecution, or defense of an action in forma pauperis. 28 U.S.C. § 1915(a). In doing so, Congress recognized the public policy concern that persons who are unable to pay fees or give security should be permitted to prosecute or defend actions that affect their legal rights. Because it appears that plaintiff is unable to pay the costs associated with commencing this action, we will grant him leave to proceed in forma pauperis.

B. Complaint

Next, we turn to plaintiff's complaint.

In enacting section 1915, Congress granted the courts an extra measure of authority when evaluating an in forma pauperis action. Under that section, the court shall dismiss such an action if it determines any of the following: (1) that the action is frivolous or malicious; (2) that the action fails to state a claim on which relief may be granted; or (3) that the action seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(B)(i), (ii), (iii). If it so finds, the court may dismiss a claim sua sponte, even before the summons

issues. Johnstone v. U.S., 980 F. Supp. 148, 150 (E.D. Pa. 1997).

A complaint fails to state a claim if, with all well-pleaded allegations taken as true, and viewed in the light most favorable to plaintiff, it does not state any valid claim for relief. See ALA, Inc. v. CCAIR, Inc., 29 F.3d 855, 859 (3d Cir. 1994). Further, a complaint is frivolous if it is "based on an indisputably meritless legal theory," or sets forth "clearly baseless" factual contentions. Neitzke v. Williams, 490 U.S. 319, 327 (1989). Moreover, a complaint is clearly baseless or frivolous, as a matter of law, if the defendant is immune from suit. See id.; 28 U.S.C. § 1915(e)(2)(B)(iii).

Here, plaintiff's claims fail as a matter of law. Plaintiff's allegations seek to attack summary offenses for traffic violations over which this court lacks jurisdiction. It follows that plaintiff's complaint must be dismissed, without prejudice to plaintiff's right to challenge the summary offenses for traffic violations in the appropriate state forum.

An appropriate order follows.

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ORDER

AND NOW, this 4th day of October, 2010, upon consideration of plaintiff's motion for leave to proceed in forma pauperis, said motion is hereby GRANTED.

IT IS FURTHER ORDERED that plaintiff's complaint is DISMISSED, without prejudice to plaintiff's right to challenge the summary offenses for traffic violations in the appropriate state forum.

BY THE COURT:


C.J.

cc: Daniel Lewis Weimer
235 Owl Hollow Road
Ligonier, PA 15058